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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/691,130	10/22/2003	Douglas J. Jones	285.7618USU	5341
7590	07/21/2005		EXAMINER	
Paul D. Greeley, Esq. Ohlandt, Greeley, Ruggiero & Perle, L.L.P. 10th Floor One Landmark Square Stamford, CT 06901-2682			BASICHAS, ALFRED	
			ART UNIT	PAPER NUMBER
			3749	
DATE MAILED: 07/21/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/691,130	JONES ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Alfred Basichas	3749	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 10 September 2004.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-35 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-5, 15, 18, 20, 23 and 25 is/are rejected.  
 7) Claim(s) 6-14, 16, 17, 19, 21, 22, 24 and 26-35 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                     | Paper No(s)/Mail Date. _____ .  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____ .                                  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-5, 15, 18, 20, 23, and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Dickson (5,341,727), which shows all of the claimed limitations. Dickson shows a grill including, among other things, a means for sensing implying sensors particularly when utilizing a computer requiring electrical signals/data (see at least col. 11, lines 20-35), zone separation (see at least col. 7, lines 25-31 and 60-68), and plural heater boxes for platens 43A-E. Dickson further shows the functional equivalence of electrical, infrared, and gas for use in the heater boxes.

### ***Allowable Subject Matter***

3. Claims 6-14, 21, 22, 24, and 26-35 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

4. Applicants' arguments with regard to the rejection of claims 1-5, 15, 18, 20, 23, and 25, filed May 31, 2005, have been considered, but are not deemed fully persuasive.

a. On page 2, 1<sup>st</sup> paragraph, of applicant's arguments, applicant asserts that the rejection as applied to claims 1 and 15 is erroneous because Dickson shows heated oil circulated in channels "embedded" in a platen, and therefore could not be read onto the claims reciting the firebox to one side of the platen. However, it appears applicant's arguments are erroneous, as a text search was done on the entire Dickson patent document and the term "embedded" was no where to be found. In fact, the figures distinctly show the platens as solid members without any "embedded" components. To be more exact, Dickson specifically recites:

*"Typical apparatus for cooking according to the present invention comprises double-sided griddle means having a lower platen providing a horizontal lower cooking surface and an upper platen providing an upper cooking surface; means for positioning the upper cooking surface in a predetermined sequence before, during, and after cooking; means for heating a supply of oil to temperatures within a predetermined range; and means for circulating the heated oil through a serpentine path wherein the oil contacts, and transfers heat to, a substantial first region of the lower platen and a serpentine path wherein the oil contacts, and transfers heat to, a substantial second region of the upper platen that is positioned directly above, and parallel to, the first region while cooking food located between the first and second regions of the platens."*

While, Dickson does mention a serpentine path for heated oil, Dickson does not state or show that it is embedded in the platen, but rather that it "*contacts, and transfers heat to, a substantial first region of the lower platen.*"

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- b. On page 2, 2nd paragraph, of applicant's arguments, applicant asserts that Dickson lacks a heater box. Applicant's attention is directed to heater 42. The fact that it is not called a box does not preclude it from being such. Applicant is advised that the term heater box is extremely broad and is thereby satisfied by the components disclosed as heater 42 of Dickson. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).
- c. On page 2, 3rd paragraph, of applicant's arguments, applicant asserts that Dickson does not show a plurality of heater boxes configured to have minimal heat migration. This is simply erroneous, as it should be clear from fig. 12 that having three separate sets of heater controls, there would be three separate heater boxes 42. Specifically, it should not be misconstrued by applicant that just because Dickson did not feel it was necessary to duplicate the disclosure for duplicate parts that they do not exist. Applicant is further advised that it is well settled that to provide duplicate parts for multiplied effect is not the type of innovation for which a patent is granted. *St. Regis Paper Co. v. Bemis Co., Inc.*, 193 USPQ 8, 11. Further, the heater boxes of Dickson are clearly "configured" to have minimal heat migration therebetween, otherwise it would not be possible to have different zones. How could one of ordinary skill in the art hope control the temperature of one zone, if the travel of heat from the adjacent zone is not

minimized. Applicant's position is inexplicable particularly in light of Dickson's detailed discussion regarding the various zones, as cited in the rejection thereof.

***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alfred Basicas whose telephone number is 571 272 4871. The examiner can normally be reached on Monday through Friday during regular business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira Lazarus can be reached on 571 272 4877. The fax phone numbers for the organization where this application or proceeding is assigned are 703 872 9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Tech Center telephone number is 571 272 3700.

July 8, 2005



Alfred Basichas  
Primary Examiner